

To the reader: the bold underlined material currently exists and will be removed. *New material is italicized. A revised version is provided under the changed version.*

Subpart B—Notice of Involuntary Child Custody Proceedings and Payment for Appointed Counsel in State Courts

§ 23.11 Notice.

(a) In any involuntary proceeding in a state court where the court knows or has reason to know that an Indian child is involved, and where the identity and location of the child's Indian parents or custodians or tribe is known, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall directly notify the Indian parents, Indian custodians, and the child's tribe by certified mail with return receipt requested, of the pending proceedings and of their right of intervention. Notice shall include requisite information identified at paragraphs **(d)** (c)(1) through (4) and **(e)** (d)(1) through (6) of this section, consistent with the confidentiality requirement in paragraph **(e)**(d)(7) of this section. **Copies of these notices shall be sent to the Secretary and the appropriate Area Director listed in paragraphs (c)(1) through (12) of this section .**

(b) If the identity or location of the Indian parents, Indian custodians or the child's tribe cannot be determined, notice of the pendency of any involuntary child custody proceeding involving an Indian child in a state court shall be sent by certified mail with return receipt requested *to: Assistant Secretary, Bureau of Indian Affairs Indian Child Welfare Act Response Center, 1001 Indian School Road, NW, Albuquerque, New Mexico 87104.* **the appropriate Area Director listed in paragraphs (c)(1) through (12) of this section.** In order to establish tribal identity, it is necessary to provide as much information as is known on the Indian child's direct lineal ancestors including, but not limited to, the information delineated at paragraph (d)(1) through (4) of this section.

(c)(1) For proceedings in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia or any territory or possession of the United States, notices shall be sent to the following address: Eastern Area Director, Bureau of Indian Affairs, 3701 N. Fairfax Drive, Suite 260, Arlington, Virginia 22201.

(2) For proceedings in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, or Wisconsin, notices shall be sent to the following address: Minneapolis Area Director, Bureau of Indian Affairs, 331 Second Avenue South, Minneapolis, Minnesota 55401–2241.

(3) For proceedings in Nebraska, North Dakota, or South Dakota, notices shall be sent to the following address: Aberdeen Area Director, Bureau of Indian Affairs, 115 Fourth Avenue, SE, Aberdeen, South Dakota 57401.

(4) For proceedings in Kansas, Texas (except for notices to the Ysleta del Sur Pueblo of El Paso County, Texas), and the western Oklahoma counties of Alfalfa, Beaver, Beckman, Blaine, Caddo, Canadian, Cimarron, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Grant, Greer, Harmon, Harper, Jackson, Kay, Kingfisher, Kiowa, Lincoln, Logan, Major, Noble, Oklahoma, Pawnee, Payne, Pottawatomie, Roger Mills, Texas, Tillman, Washita, Woods and Woodward, notices shall be sent to the following address: Anadarko Area Director, Bureau of Indian Affairs, P.O. Box 368, Anadarko, Oklahoma 73005. Notices to the Ysleta del Sur Pueblo of El Paso County, Texas shall be sent to the Albuquerque Area Director at the address listed in paragraph (c)(6) of this section.

(5) For proceedings in Wyoming or Montana (except for notices to the Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana), notices shall be sent to the following address: Billings Area Director, Bureau of Indian Affairs, 316 N. 26th Street, Billings, Montana 59101. Notices to the Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana, shall be sent to the Portland Area Director at the address listed in paragraph (c)(11) of this section.

(6) For proceedings in the Texas counties of El Paso and Hudspeth and proceedings in Colorado or New Mexico (exclusive of notices to the Navajo Tribe from the New Mexico counties listed in paragraph (c)(9) of this section), notices shall be sent to the following address: Albuquerque Area Director, Bureau of Indian Affairs, 615 First Street, P.O. Box 26567, Albuquerque, New Mexico 87125. Notices to the Navajo Tribe shall be sent to the Navajo Area Director at the address listed in paragraph (c)(9) of this section.

(7) For proceedings in Alaska (except for notices to the Metlakatla Indian Community, Alaska), notices shall be sent to the following address: Juneau Area Director, Bureau of Indian Affairs, 709 West 9th Street, Juneau, Alaska 99802-1219. Notices to the Metlakatla Indian Community of the Annette Islands Reserve, Alaska, shall be sent to the Portland Area Director at the address listed in paragraph (c)(11) of this section.

(8) For proceedings in Arkansas, Missouri, and the eastern Oklahoma counties of Adair, Atoka, Bryan, Carter, Cherokee, Craig, Creek, Choctaw, Coal, Delaware, Garvin, Grady, Haskell, Hughes, Jefferson, Johnson, Latimer, LeFlore, Love, Mayes, McCurtain, McClain, McIntosh, Murray, Muskogee, Nowata, Okfuskee, Okmulgee, Osage, Ottawa, Pittsburg, Pontotoc, Pushmataha, Marshall, Rogers, Seminole, Sequoyah, Wagoner, Washington, Stephens, and Tulsa, notices shall be sent to the following address: Muskogee Area Director, Bureau of Indian Affairs, 101 North Fifth Street, Muskogee, Oklahoma 74401.

(9) For proceedings in the Arizona counties of Apache, Coconino (except for notices to the Hopi and San Juan Paiute Tribes) and Navajo (except for notices to the Hopi Tribe); the New Mexico counties of McKinley (except for notices to the Zuni Tribe), San Juan, and Socorro; and the Utah county of San Juan, notices shall be sent to the following address: Navajo Area Director, Bureau of Indian Affairs, P.O. Box 1060, Gallup, New Mexico 87301. Notices to the Hopi and San Juan Paiute Tribes shall be sent to the Phoenix Area Director at the address listed in paragraph (c)(10) of this section. Notices to the Zuni Tribe shall be sent to the Albuquerque Area Director at the address listed in paragraph (c)(6) of this section.

(10) For proceedings in Arizona (exclusive of notices to the Navajo Tribe from those counties listed in paragraph (c)(9) of this section), Nevada or Utah (exclusive of San Juan county), notices shall be sent to the following address: Phoenix Area Director, Bureau of Indian Affairs, 1 North First Street, P.O. Box 10, Phoenix, Arizona 85001.

(11) For proceedings in Idaho, Oregon or Washington, notices shall be sent to the following address: Portland Area Director, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, Oregon 97232. All notices to the Confederated Salish & Kootenai Tribes of the Flathead Reservation, located in the Montana counties of Flathead, Lake, Missoula, and Sanders, shall also be sent to the Portland Area Director.

(12) For proceedings in California or Hawaii, notices shall be sent to the following address: Sacramento Area Director, Bureau of Indian Affairs, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

(c) **(d)** Notice to the *Assistant Secretary* **appropriate Area Director** pursuant to paragraph (b) of this section may be sent by certified mail with return receipt requested or by personal service and shall include the following information, if known:

(1) Name of the Indian child, the child's birth date and birthplace.

(2) Name of Indian tribe(s) in which the child is enrolled or may be eligible for enrollment.

(3) All names known, and current and former addresses of the Indian child's biological mother, biological father, maternal and paternal grandparents and great grandparents or Indian custodians, including maiden, married and former names or aliases; birthdates; places of birth and death; tribal enrollment numbers, and/or other identifying information.

(4) A copy of the petition, complaint or other document by which the proceeding was initiated.

(d) **(e)** In addition, notice **provided to the appropriate Area Director** pursuant to paragraph (b) of this section shall include the following:

(1) A statement of the absolute right of the biological Indian parents, the child's Indian custodians and the child's tribe to intervene in the proceedings.

(2) A statement that if the Indian parent(s) or Indian custodian(s) is (are) unable to afford counsel, and where a state court determines indigency, counsel will be appointed to represent the Indian parent or Indian custodian where authorized by state law.

(3) A statement of the right of the Indian parents, Indian custodians and child's tribe to be granted, upon request, up to 20 additional days to prepare for the proceedings.

(4) The location, mailing address, and telephone number of the court and all parties notified pursuant to this section.

(5) A statement of the right of the Indian parents, Indian custodians and the child's tribe to petition the court for transfer of the proceeding to the child's tribal court pursuant to 25 U.S.C. 1911, absent objection by either parent: Provided, that such transfer shall be subject to declination by the tribal court of said tribe.

(6) A statement of the potential legal consequences of the proceedings on the future custodial and parental rights of the Indian parents or Indian custodians.

(7) A statement that, since child custody proceedings are conducted on a confidential basis, all parties notified shall keep confidential the information contained in the notice concerning the particular proceeding. The notices shall not be handled by anyone not needing the information contained in the notices in order to exercise the tribe's rights under the Act.

(e) **(f)** Upon receipt of the notice, the *Assistant Secretary* or his/her designee shall make reasonable documented efforts to locate and notify the child's tribe and the child's Indian parents or Indian custodians. The *Assistant Secretary* or his/her designee shall have 15 days, after receipt of the notice from the persons initiating the proceedings, to notify the child's tribe and Indian parents or Indian custodians and send a copy of the notice to the court. If within the 15-day time period the *Assistant Secretary* or his/her designee is unable to verify that the child meets the criteria of an Indian child as defined in 25 U.S.C. 1903, or is unable to locate the Indian parents or Indian custodians, the *Assistant Secretary* or his/her designee shall so inform the court prior to initiation of the proceedings. **and state how much more time, if any, will be needed to complete the search. The Assistant Secretary or his/her designee shall complete all research efforts, even if those efforts cannot be completed before the child custody proceeding begins.**

(f) **(g)** Upon request from a party to an Indian child custody proceeding, the *Assistant Secretary* or his/her designee shall make a reasonable attempt to identify and locate the child's tribe, Indian parents or Indian custodians to assist the party seeking the information.

§ 23.12 Designated tribal agent for service of notice.

Any Indian tribe entitled to notice pursuant to 25 U.S.C. 1912 may designate by resolution, or by such other form as the tribe's constitution or current practice requires, an agent for service of notice other than the tribal chairman and send a copy of the designation to the Secretary or his/her designee. The Secretary or his/her designee shall update and publish as necessary the names and addresses of the designated agents in the Federal Register. A current listing of such agents shall be available through the regional offices, and will be included on the Department of the Interior-Bureau of Indian Affairs Intranet at <http://inside.bia.gov/>.

Revised Version

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(c) Notice to the *Assistant Secretary* pursuant to paragraph (b) of this section may be sent by certified mail with return receipt requested or by personal service and shall include the following information, if known:

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